

**RULES  
OF  
THE TENNESSEE DEPARTMENT OF CORRECTION**

**CHAPTER 0420-3-1  
PRISONER PERFORMANCE SENTENCE CREDITS**

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**0420-3-1-.01 STATEMENT OF INTENT.**

- (1) These rules establish the criteria and procedure by which the "Prisoner Performance Sentence Credit" system will be implemented, as provided by 1980 Tennessee Public Acts, Chapter 805. All sentence credits for participation in work, educational and vocational programs shall be governed by these rules.

**Authority:** T.C.A. §41-363 (5). **Administrative History:** Original rule filed February 13, 1981; effective April 15, 1981.

**0420-3-1-.02 PPSC ARE A PRIVILEGE.**

- (1) Prisoner Performance Sentence Credits (PPSC) are a privilege and not a right. The PPSC system replaces the Incentive Time system. The only credits which may be earned for participation in a work, educational or vocational program are PPSC.

**Authority:** T.C.A. §41-363 (5). **Administrative History:** Original rule filed February 13, 1981; effective April 15, 1981.

**0420-3-1-.03 ASSIGNMENT TO PROGRAMS.**

- (1) An effort will be made to assign inmates to programs in accordance with classification recommendations; but no inmate shall be entitled to participate in a specific program on the basis of a classification recommendation.

**Authority:** T.C.A. §41-363 (5). **Administrative History:** Original rule filed February 13, 1981; effective April 15, 1981.

**0420-3-1-.04 AMOUNT OF CREDIT.**

- (1) Every inmate assigned to any full-time work, educational or vocational training program who is participating in that program on or after the effective date of this policy will be eligible to earn PPSC in accordance with the following schedule:
  - (a) during the first calendar year of imprisonment, at the rate of four (4) days per month,
  - (b) during the second through fifth calendar year of imprisonment at the rate of ten (10) days per month,
  - (c) during the sixth calendar year of imprisonment and thereafter at the rate of twelve (12) days per month,

(Rule 0420-3-1-.04, continued)

- (d) irrespective of the calendar year of imprisonment, at the rate of fifteen (15) days per month for all inmates classified as "minimum security" (direct, trustee or community).

**Authority:** T.C.A. §41-363 (5). **Administrative History:** Original rule filed February 13, 1981; effective April 15, 1981.

#### **0420-3-1-.05 PART-TIME PROGRAMS.**

- (1) Every inmate assigned to any part-time work, educational or vocational program shall be eligible to earn PPSC at one half of the rate specified above. Irrespective of the number of full or part-time programs to which an inmate is assigned the inmate shall not be entitled to earn more PPSC than the amount specified in rule 0420-3-1-.04.

**Authority:** T.C.A. §41-363 (5) and 41-360. **Administrative History:** Original rule filed February 13, 1981; effective April 15, 1981.

#### **0420-3-1-.06 INCENTIVE TIME.**

- (1) The schedule of PPSC which can be earned by an inmate as set forth in rules 0420-3-1-.04 and 0420-3-1-.05 applies to participation only after the effective date of this policy. Credits earned before that date are governed by the incentive time statute, T.C.A. 41-357.

**Authority:** T.C.A. §41-363 (5). **Administrative History:** Original rule filed February 13, 1981; effective April 15, 1981.

#### **0420-3-1-.07 DEFINITIONS.**

- (1) For the purposes of this policy, the following definitions shall apply:
  - (a) "First Calendar Year of Confinement" - This year shall commence on the inmates sentence effective date. Where an inmate has been sentenced to serve multiple terms, whether consecutive or concurrent, the first calendar year will commence on the sentence effective date of the first sentence.
  - (b)
  - (c) "Full Calendar Month" - An inmate shall be considered to have participated in a PPSC program for a "full calendar month" if he is enrolled and present at his assignment duties three-fourths (3/4) of the days during the month when the program meets.

**Authority:** T.C.A. §41-363 (5). **Administrative History:** Original rule filed February 13, 1981; effective April 15, 1981.

#### **0420-3-1-.08 SUSPENSION, DISMISSAL OR WITHDRAWAL FROM PPSC PROGRAM.**

- (1) The following procedures will apply to the suspension and dismissal of an inmate from a PPSC program:

- (a) Disciplinary offense:

- 1. An inmate may be suspended or dismissed from a PPSC program for any of the following reasons:

- (i) Failure to adequately participate in the program (including absenteeism),
  - (ii) Commission of any other disciplinary offense.

- 2. An inmate may be suspended from a PPSC program by the program director or job supervisor only upon the issuance of a disciplinary report setting forth the reasons for such action, within the scope of paragraph 1 above.

(Rule 0420-3-1-.08, continued)

3. The cases will then be handled in the manner set forth for all disciplinary offenses in the Department's disciplinary procedures.
  4. If the disciplinary board finds that the inmate acted in the manner alleged, it may:
    - (i) Affirm the suspension of an inmate and order his dismissal. It shall also direct that the Inmate not be credited with PPSC for the period of suspension. Additionally:
      - (I) The board may impose any other penalty authorized by TDOC disciplinary procedures, *except* that accrued incentive time or PPSC may only be taken away for failure to adequately participate in the program or commission of a Class "A" disciplinary offense.
  5. If the board finds in favor of the inmate, it shall order that the inmate be reinstated in the program and given credit for the PPSC for the period of suspension.
- (b) Inability to perform:
1. Where an inmate is incapable of performing within the assigned program due to no fault of his own (i.e., due to physical or mental infirmity, inter-institutional transfer, etc.), he may be dismissed from the program and referred to the institutional classification team for assignment to a new program.
  2. An inmate removed from a program due to inability to perform will continue to earn PPSC during the remainder of the month in which the dismissal occurred.
- (c) Voluntary withdrawal:
1. An inmate with the permission of the Classification Committee may voluntarily withdraw from a program, but the inmate will not be entitled to PPSC for that month unless his/her cumulative participation in that program and/or another program to which he/she is assigned constitutes a calendar month as defined in rule 0420-1-1-.07. When an inmate voluntarily withdraws from a program, the classification team shall be notified so the inmate may be assigned to a new program, where available.

**Authority:** T.C.A. §41-363 (1) and (5). **Administrative History:** Original rule filed February 13, 1981; effective April 15, 1981.

#### **0420-3-1-.09 CLASSES OF DISCIPLINARY OFFENSES.**

- (1) The following are Class 'A' disciplinary offenses:
  - (a) Homicide or attempted homicide of any degree,
  - (b) Escape or attempted escape,
  - (c) Rape, attempted rape or a sexual assault of any nature,
  - (d) Incitement to or participation in a riot in any manner,
  - (e) Arson, or attempted arson,
  - (f) Possession of, or any offense committed with a deadly weapon,
  - (g) Assault and/or battery upon a State employee, another inmate or a visitor to an institution,
  - (h) Failure to adequately participate in an assigned program.
- (2) The following are Class 'B' disciplinary offenses:
  - (a) Any disciplinary offense constituting a crime, other than those specified in paragraph A., above, and gambling, including, but *not limited to* the following:

(Rule 0420-3-1-.09, continued)

1. Any drug or alcohol related offense,
2. Any theft offense (i.e., burglary, robbery),
3. Forgery,
4. Contraband offense,
5. Destruction of State property.

(3) The following are Class 'C' disciplinary offenses:

- (a) Gambling
- (b) Out-of-place,
- (c) Furlough violation,
- (d) Failure to turn in earnings,
- (e) Disrespect,
- (f) Horseplay,
- (g) Refusal of a direct order,
- (h) Late returning,
- (i) In unauthorized location,
- (j) Operating unauthorized vehicle,
- (k) Unauthorized absence from work,
- (l) Failure to report directly to work,
- (m) Unauthorized termination of employment,
- (n) Making unauthorized financial transactions,
- (o) Any other disciplinary offense which is not a crime.

**Authority:** T.C.A. §41-363 (a), (b) and (e). **Administrative History:** Original rule filed February 13, 1981; effective April 15, 1981.

**0420-3-1-.10 DISCIPLINARY PROCEDURE.**

- (1) Sentence credits may be taken from an inmate only in accordance with institutional procedures which comply with these rules:
  - (a) An inmate accused of a disciplinary offense must be given written notice of the rule violated and the manner of its violation, no less than six hours prior to meeting a disciplinary committee.
  - (b) An inmate accused of a disciplinary offense must be advised of his right to be represented by a resident advisor. The advisor shall investigate the alleged incident, interview any inmate-witnesses, and meet the disciplinary committee along with the accused inmate. The advisor assigned shall have six hours written notice prior to a disciplinary committee hearing so that he may adequately investigate the alleged incident and assist the accused in presenting his position, both as to the facts of the alleged incident and any other circumstances tending to mitigate the punishment imposed.
  - (c) The inmate at a disciplinary hearing must be confronted with the accusing witness and/or guard and provided an opportunity through his inmate-advisor, to respectfully interrogate the accuser relative to the accused's version of the alleged incident. One inmate witness may be called on behalf of the accused. Other inmate witnesses may appear at the discretion of the board. This rule does not apply to witnesses who provide confidential information to the board where the disclosure of that person's identity could reasonably place that individual in fear of his/her personal safety.
  - (d) The accused inmate shall be allowed to present "a defense of his position", both as to his version of the facts and as to any existing circumstances, which, in his opinion, tend to mitigate the severity of any punishment to be imposed.
  - (e) The disciplinary panel shall be composed of impartial members. The decision of the board shall be based solely on the evidence presented. The board shall issue a written statement of the reasons for its decision and the evidence relied upon.

(Rule 0420-3-1-.10, continued)

- (f) When a case is decided adversely to the inmate, he/she shall be entitled to appeal the board's decision to the wardens and thereafter to the Commissioner. The inmate shall be so advised.
- (g) No inmate may be placed in segregation as punishment for more than thirty (30) days.
- (h) When an inmate is charged with a disciplinary offense *and* held in segregation pending a hearing, the case shall be heard within seventy-two (72) hours. When a charged inmate is not held in segregation, the case shall be heard within seven (7) days. The hearing in any case can be continued for good cause.
- (i) An inmate who has *not* been charged with a disciplinary offense, but who is suspected of having committed an offense may be placed in segregation pending investigation. But, the inmate may *not* be held in segregation for more than eighteen (18) hours, unless the warden or deputy warden countersign that there is probable cause to believe that the inmate committed the offense charged.

**Authority:** T.C.A. §41-363 (a). **Administrative History:** Original rule filed February 13, 1981; effective April 15, 1981.

#### **0410-3-1-.11 RESTRICTIONS UPON EARNING PPSC.**

- (1) The following classifications of inmates were not authorized to earn incentive time or were authorized to earn such credits on a limited basis. This statute imposes the identical restrictions:
  - (a) Those serving sentences for conviction as a habitual criminal are not entitled to earn PPSC;
  - (b) Those serving life sentences (with the exception of habitual criminals) for an offense committed on or after May 6, 1973 are not entitled to earn PPSC;
  - (c) Those serving a single determinate sentence for a term of sixty-five (65) years or more for an offense committed on or after March 24, 1965, are not entitled to PPSC to reduce parole eligibility, but can earn PPSC to reduce expiration date.
  - (d) Those serving an indeterminate sentence of not less than one (1) year nor more than anything, cannot earn PPSC off the minimum sentence, but are entitled to earn PPSC to reduce expiration date;
  - (e) Class X offenders are not entitled to PPSC.
- (2) With the exception of those classes of inmates designated in subsection (1), above, all other inmates who are assigned to a PPSC program shall be eligible to earn PPSC to reduce both parole and expiration dates. But, an inmate convicted of a Class "A" offense or an offense resulting in his removal from a PPSC program shall not earn PPSC for the month in which the offense was committed.

**Authority:** T.C.A. §41-362 and 41-363 (b). **Administrative History:** Original rule filed February 13, 1981; effective April 15, 1981.

#### **0420-3-1-.12 RESTORATION OF PPSC OR INCENTIVE TIME TAKEN.**

- (1) PPSC or Incentive Time taken from an inmate for an offense committed on or after October 1, 1980 in accordance with the procedures stated in this policy cannot be restored. Incentive time credits taken away before that date may be restored in accordance with the procedures in existence when the credits were taken.

**Authority:** T.C.A. §41-363 (b) and 41-362. **Administrative History:** Original rule filed February 13, 1981; effective April 15, 1981.

**0420-3-1-.13 MODIFICATION OF PROCEDURES.**

- (1) The earning levels set forth in rule 0420-1-1-.04, and the procedures governing how such credits are to be earned are subject to change upon notice.

**Authority:** T.C.A. § 41-363. **Administrative History:** Original rule filed February 13, 1981; effective April 15, 1981.

**0420-3-1-.14 EFFECTIVE DATE.**

- (1) PPSC credits apply only to participation in programs on and after September 1, 1980. Incentive time applies only to participation in programs before September 1, 1980. The sentence credits which can be earned for participation in a program shall be governed exclusively by the limits set forth in rule 0420-3-1-.04.

**Authority:** T.C.A. §41-363. **Administrative History:** Original rule filed February 13, 1981; effective April 15, 1981.